



May 28, 1999

Ms. Tenley Aldredge
Assistant County Attorney
County of Travis
314 West 11th Street, Suite 300
Austin, Texas 78767

OR99-1481

Dear Ms. Aldredge:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 125235.

The Travis County Sheriff's Department (the "sheriff") received a request for offense report 99-5832. You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code. You have supplied the responsive information to our office for review.

You acknowledge that the sheriff failed to submit a request for opinion regarding the requested information within the ten business day limit imposed by section 552.301 of the Government Code. Failure to timely submit a request for opinion results in the presumption that the requested information is public. *See Gov't Code § 552.302*. This presumption may only be overcome by a demonstration of a compelling reason to withhold the information. *See Hancock v. State Bd. Of Ins.*, 797 S.W.2d 379 (Tex. App.--Austin 1990, no writ).

You acknowledge that the failure to submit a timely request for opinion is "[d]ue to our office's internal error." You state that the request for information was initially received by the Travis County Sheriff's Department and subsequently forwarded to the Travis County Attorney's Office. You also state, "the Travis County Sheriff's Office hereby invokes Section 552.108 of the TPIA . . . on behalf of the Travis County Attorney's Office." You argue that release of the subject information "implicates the interests of a third party, specifically the Criminal Division of the Travis County Attorney's Office." Thus, in this request for opinion, the County Attorney's Office represents both the Travis County Sheriff's Department and the Criminal Division of the Travis County Attorney's Office.

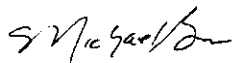
The Office of the Attorney General has held that "the need of a governmental body other than the body that has failed to timely seek an open records decision, may, in appropriate circumstances, be a compelling reason for non-disclosure." Open Records Decision No. 586 (1991). The information request that was the subject of Open Records Decision No. 586 was

initially presented to a district attorney and subsequently forwarded to the Department of Public Safety. The Department of Public Safety submitted a letter to our office, asserting its interest in the non-disclosure of the requested information. This office held, "the Department of Public Safety's assertion of its interest in having the requested information withheld constitutes a compelling demonstration, sufficient to overcome the heightened presumption of openness." *Id.* at 3. This decision in part hinged on the fact that "had the Department of Public Safety received the initial request for information, it could have withheld the information." *Id.*

As agent for both the Sheriff's Department and the County Attorney, the County Attorney is required to timely raise exceptions for both entities it represents. The tardiness of the County Attorney cannot be excused by the fact that the County Attorney is the agent of two entities. We conclude that there has been no demonstration of a compelling reason to withhold the information. Unless the information is considered confidential by law or has been specifically excepted from disclosure by a previous ruling of this office, it must be released.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Michael Jay Burns
Assistant Attorney General
Open Records Division

MJB/ch

Ref: ID# 125235

Encl. Submitted documents

cc: Mr. Rod Biskeborn
7212 Silvermine
Austin, Texas 78736
(w/o enclosures)